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SUMMARY RECORD OF THE 1634th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 31 October 1997, at 10 a.m.

Chairperson: Ms. CHANET

later: Ms. MEDINA QUIROGA

later: Ms. CHANET

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GE.97-18928 (E)

The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Initial report of Lithuania (CCPR/C/81/Add.10, English only, and document GE.97-18727, without symbol, English only; CCPR/C/61/Q/LIT/3)

1. At the invitation of the Chairperson, Mr. Januška, Mr. Jurgelevičius, Mr. Navikas, Ms. Burneikiene and Mr. Goda (Lithuania) took places at the Committee table.

2. Mr. JANUŠKA (Lithuania), introducing the State party's initial report (CCPR/C/81/Add.10, English only, and the amendments contained in document GE.97-18727, English only), underscored the attachment to human rights that characterized the new Lithuanian State. The first international instrument to have been ratified by the Government since 1991 had been the International Covenant on Civil and Political Rights; Lithuania had subsequently ratified the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women.

3. A brief review of developments since the initial report had been prepared in April 1996 was required. The Government had taken measures to ensure the implementation of the Convention on the Elimination of All Forms of Discrimination against Women and had established an ad hoc working group to draw up a plan of action for the period 1998-2000 and to prepare the reports required by the Convention. In addition, the Government was desirous of abolishing the death penalty and had begun legislative proceedings to permit ratification of Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty. Further details would be provided in the replies to the written questions. In September 1995, Lithuania had signed the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, an act that reflected its desire fully to discharge its obligations in the field of human rights, which was attributable to its long-standing democratic tradition.

4. A new era had dawned with the promulgation, in May 1996, of an Act amending the Code of Criminal Procedure. Previously, the courts had not been involved in procedure for arrest, whereas under the new system the judiciary alone had the authority to authorize taking someone into custody. Formerly, it had been possible to hold people in preventive detention, a measure that had originally been introduced to combat a serious crime wave. After a protracted debate on the issue, the Government had decided that preventive detention was a violation of fundamental rights, and it had been abolished on 1 July 1997. In August 1997, parliament had adopted an act to combat crime, which made no provision for preventive detention. In April 1997, Lithuania had ratified the European Convention on Extradition as well as the Convention's first and second Additional Protocols. The law required detainees to be incarcerated separately, depending on their sex and age. Moreover, the Government had approved a set of rules on the expulsion of

aliens pursuant to which no one could be expelled to a country in which he had been persecuted on account of his sex, race, nationality, language, beliefs, political or other opinions or his social or national origins, and in which he would not be guaranteed his right to a defence.

5. Article 2 of the Constitution embodied virtually all the rights and freedoms set forth in the international instruments. Recently, new provisions had been adopted to ensure protection of privacy. Generally speaking, no information on a person's private life could be gathered without a substantiated order from a court. A new text exhaustively listed the grounds on which the competent authorities could initiate an investigation into an alleged breach of individual privacy.

6. Freedom of the press was extremely important to Lithuania, and in June 1996 a Public Information Law had been promulgated. The Law regulated in detail all aspects of information gathering and dissemination, as well as the rights and responsibilities of journalists and the owners of the media. There was no restriction on the right to receive and disseminate information, although it should not be exercised to the detriment of the rights and freedoms of others. The only restrictions applicable had to be justified by the requirements of public safety or the need to safeguard fundamental rights, public health, morals and privacy; all those criteria were set forth in the Law. In October 1996, parliament had voted an act governing the organization and management of the national radio and television network.

7. Lastly, in March 1996, parliament had adopted an act on the fundamental rights of the child which was in perfect harmony with the relevant international instruments. Moreover, in October 1997, Lithuania had ratified the Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption, a step which offered new possibilities of combating abuse. His delegation hoped that its brief presentation had convinced members of the Committee of Lithuania's firm resolve to respect all fundamental rights.

8. The CHAIRPERSON thanked the delegation of Lithuania for its introduction and invited it to answer the questions in the first part of the list of issues (CCPR/C/61/Q/LIT/3).

9. Mr. JANUŠKA (Lithuania) explained, in reply to the first question on the list of issues, that the International Covenant on Civil and Political Rights had the status of an international treaty and that, in accordance with article 138 of the Constitution, international treaties were part of the legal system of the Republic. By virtue of the 1991 Act on International Treaties, treaties ratified by the Republic had force of law; consequently, the Covenant could be enforced as law. He said that there were no specific procedures for implementing any views that the Committee might adopt under the Optional Protocol to the Covenant (question 2), although naturally the recommendations would automatically be forwarded to the relevant bodies which would take the necessary decisions.

10. Regarding equality of the sexes and discrimination against women (question 3) it was noteworthy, as revealed by the results of the most recent parliamentary and municipal elections, that there were more and more women in

politics and the administration. Half of the members of the Lithuanian parliament (Seimas) were elected under the multiple mandate system and the other half under the single mandate system. Following the most recent elections held in October 1996, 21 per cent of members elected under the multiple mandate regime and 19 per cent of those elected under the single mandate regime had been women. The number of female candidates had increased threefold since the 1992 general elections, rising from 98 to 278. There were also more women in the new Government. The number of women candidates for municipal councils was also increasing and they also had more women members.

11. Women were entitled to choose their profession and type of work, to promotion and to additional employment safeguards and also benefited from favourable terms for vocational and on-the-job training. Pregnant women and women with young children were eligible for special conditions at work. Under the Industrial Safety Act, women were entitled to choose between full-time or part-time work, and choose jobs that were not harmful either to their health or that of their children. Pregnant women and women with children under three years of age were not allowed to work overtime or at night. Pregnant women and women with children under 14 or with disabled children were entitled to choose their period of annual leave. It was prohibited by law to dismiss a woman because she was pregnant or because she was looking after her children. Under article 140 of the Criminal Code, anyone who refused to hire or dismissed a woman on grounds of pregnancy was liable to prosecution.

12. In reply to question 4 concerning violence against women and children, he informed the Committee that the Criminal Code punished rape, sexual abuse of women, sexual relations with immature individuals and seduction. The Government was currently considering a bill to provide allowances to the guardians of children or child-care institutions. Chapter 30 of the new Criminal Code punished prostitution-related crimes and contained stricter measures to deal with those who encouraged minors, the mentally disabled or needy persons to prostitute themselves or who compelled them to prostitute themselves by fraud or coercion.

13. The death sentence (question 5) had been imposed on six occasions between 1 July 1995 and 1 July 1997, and the last execution had taken place on 12 July 1995. On 25 July 1996, the President of the Republic had submitted a bill to parliament suspending the application of the death penalty. For the time being, in his capacity as President of the Clemency Commission, he had suspended consideration of appeals for clemency by persons sentenced to death, and as the Clemency Commission was the final appeal body before execution, the suspension had effectively put a halt to executions. The procedure leading to the signature of Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty had been initiated. Lithuania's ratification of the Second Optional Protocol to the Covenant was consequently but a matter of time.

14. Regarding ill-treatment (question 6), he said that article 13 of the Criminal Code made police officers and prison warders liable for abuse of office, abuse of authority, dereliction of duty, forgery, unlawfully accepting money in connection with their official position and corruption. An appeal could be lodged with the administrative and judicial authorities against any act or decision by police officers or other public officials. The law

afforded protection for human honour and dignity, and any police officer who failed to respect them was disciplined, without prejudice to his administrative or criminal liability. Compensation for any moral or material injury caused by an unlawful act by a State official was guaranteed by the Criminal Code, the Code of Criminal Procedure, the Civil Code and the Code of Civil Procedure. In addition, a bill before parliament was intended to clarify the provisions of article 486 of the Civil Code.

15. With regard to liberty and security of person (question 7), the Committee had requested information on the implementation of the amendments to the Code of Criminal Procedure referred to in paragraphs 35 to 47 of the report. In May 1996, parliament had adopted an act amending and supplementing the Code of Criminal Procedure. Under the new article 10 no one could be arrested in the absence of a court order or judge's decision. Previously, the prosecutor had been able to order arrest. Henceforth, only a court or judge could do so. If the prosecutor deemed it necessary to arrest anyone, he had to file an application with the judge of the district court in whose jurisdiction the preliminary investigation had been conducted. If the judge granted the application, he issued a warrant of arrest. A written decision was also required if the application was refused. If the judge granted the application, the prosecutor had 48 hours to bring the person concerned before the judge, who questioned him, before confirming the arrest or revoking it.

16. In addition, the amended provisions of the Code of Criminal Procedure specified the grounds on which a person could be arrested: there had to be reasonable grounds for suspecting that the person in question might flee to avoid investigation and trial or that he might obstruct the course of justice or commit new offences. Under the new Code of Criminal Procedure, no one could be held in pre-trial detention for more than six months. If the case was particularly complex, the maximum period of detention could be extended by the district judge, although not by more than three months. The extension could be renewed, provided the total period did not exceed 18 months. The total period of pre-trial detention should not exceed two thirds of the maximum custodial penalty applicable to the offence with which the person was charged. The application of those amendments was therefore in no way incompatible with article 9 of the Covenant.

17. Mr. JURGELEVIČIUS (Lithuania), referring to the question of conditions of detention (question 8), said that following the restoration of independence, the provisions applicable to places of detention had been amended, together with almost 70 per cent of the articles of the Penitentiary Code, to ensure that prison sentences were served under more humane conditions. In 1996 a new Act on pre-trial detention had been adopted, and in 1992 provisional internal regulations on penal establishments, which had constantly been improved since then. In 1996 new regulations had also been adopted for places of pre-trial detention and a new draft criminal code had been submitted to parliament. All those provisions had been drawn up on the basis of the European Prison Rules and the recommendations made by the experts of the Council of Europe, who had visited Lithuanian prisons in 1995. Although in practice convicted prisoners had already been held separately from prisoners awaiting trial, the new provisions made it mandatory to do so

(article 12 of the act on pre-trial detention). The requirement to separate minors from adults was laid down by article 18 of the Penitentiary Code and by article 12 of the Act on pre-trial detention.

18. Most prisons, and in particular cells in which persons were held pending trial, were overcrowded. The Act contained guarantees, although it was impossible to comply with them in practice on account of the large number of prisoners. At the end of 1995 a new prison with a capacity of 1,000 had been opened. However, the number of prisoners elsewhere had not declined, as the number of persons being convicted was steadily rising. Since the beginning of the year, the prison population had increased by 902, and on 1 October 1997 there had been 353 prisoners per 100,000 inhabitants. A new pre-trial detention centre for juvenile delinquents, due to open in 1998, was being built at Kaunas and a central prison hospital was under construction at Vilnius. When all those establishments had been opened, the conditions of prisoners awaiting trial would be considerably improved. Under article 50 of the Penitentiary Code and article 15 of the Act on pre-trial detention, detainees awaiting trial and convicted prisoners could submit proposals, requests and complaints to the authorities and to organizations. They were also entitled to apply directly to the President, to parliament or to a member of the Government, the parliamentary ombudsman, the prosecutor or to a representative of the Ministry of the Interior whenever they visited a place of detention.

19. Turning to the question of asylum seekers (question 9) he said that aliens who wished to apply for refugee status submitted their application in writing or orally, either to the border post or to a police station in Lithuania. When it had been established, in conformity with article 4 of the Act of 4 July 1995 on the status of refugees, that there were no grounds for refusing asylum, the alien was granted temporary territorial asylum. Asylum seekers could be accompanied by members of their family (their spouse and children under 18) and all of them were entitled to State assistance and public services. Under the Act, the freedom of movement of aliens granted temporary refugee status could be limited. Refugees granted temporary status were housed at the refugee centre, which they could leave to travel within Lithuania for a maximum period of 72 hours. If they left the centre for over 72 hours without sufficient reason, the processing of their application for refugee status could be terminated. Aliens granted temporary asylum and whose identity had not yet been determined were not authorized to leave the refugee centre. Asylum seekers were entitled to various rights while their application was being processed: exemption from any charges or fees for processing the documents necessary to determine their refugee status; the free services of an interpreter or a translator; free housing in the refugee centre, where many services were available; free medical care and a monthly allowance.

20. Regarding freedom of conscience and expression (question 10) he said that article 3 of the 1996 Public Information Law guaranteed the right to seek, receive and disseminate information and ideas. Public servants who attempted to impede the dissemination of information or who refused to provide information to the media could be held liable for their act. The Criminal Code laid down a two-year prison sentence for anyone who persecuted another

person for any statements, complaints or criticism made in writing or in any other manner. Any act or decision by State organs that hindered or restricted freedom of information could be appealed.

21. Mr. JANUŠKA (Lithuania) said he would reply to the issues raised under question 11 of the list, concerning the rights of persons belonging to minorities. According to the results of the 1989 census, for every 1,000 individuals belonging to a group of specific origin, the following numbers were employed in various sectors: education, culture and the arts, 16 Lithuanians, 11 Russians, 10 Poles, 6 Belarusians and 12 residents of other nationalities; the Civil Service, 25 Lithuanians, 94 Russians, 30 Poles, 58 Belarusians and 122 persons of other nationalities; research, 17 Lithuanians, 25 Russians, 17 Poles, 22 Belarusians and 27 persons of other nationalities. The next census, to take place in 1999, would provide more detailed information on the proportion of national minorities in political organizations and public bodies and enterprises. However, he mentioned that persons belonging to national minorities were employed in a number of institutions and organizations and there were many officers of Russian origin in the Lithuanian army.

22. Article 15 of the law on the State Language provided for the use of gender in patronymics in accordance with the national laws. The decision by the Supreme Council concerning the spelling of names on the Lithuanian national passport contained a provision on the use of Lithuanian characters to spell first names and patronymics. Upon written request by the party concerned, first names and patronymics could be spelt as they were pronounced, regardless of grammatical rules (without Lithuanian inflections). Lastly, under a bilateral agreement reached with Poland in April 1994, first names and patronymics were to be used as they were pronounced in the language of the national minority concerned.

23. His delegation said that on 1 January 1997 there had been approximately 300,000 residents belonging to the Russian minority in Lithuania, accounting for some 8.2 per cent of the total population. The overwhelming majority had chosen Lithuanian citizenship, while slightly more than 10,000 had either chosen Russian citizenship or decided to remain in Lithuania as stateless persons.

24. During the post-war period there had been Russian language pre-school education establishments in Lithuania. In 1996 there had been 31 Russian language kindergartens and 360 others had special sections for Russian children, and young Russians attending those establishments accounted for 7 per cent of the total enrolment. During the 1996/1997 school year, 169 secondary schools had provided teaching in Russian, with a total enrolment of 52,315 pupils, amounting to almost 10 per cent of the national total. All subjects were taught in Russian, with the exception of the Lithuanian language and literature. At the request of parents and pupils, some subjects could be taught in the State language. The publication of school textbooks and teaching materials used in the Russian schools was funded by the State budget and some textbooks were purchased in Russia. Lithuania also had a number of private Russian-language primary and secondary schools.

25. During the 1996/97 school year, almost 3,000 students of Russian origin had attended Lithuanian vocational training schools, representing 5.6 per cent of the student body, and 24 schools had sections in which teaching was provided in Russian. Lastly, there were 1,719 Russian students in high schools - 7 per cent of the total.

26. In 1996, 37 Russian language daily papers and 11 Russian language magazines had been published in Lithuania, where there was also a private Russian-language publishing house. Several private radio and television stations broadcast programmes in Russian and cable television made it possible to broadcast programmes produced by Russian companies. Russian groups, numbering 55 in 1997, were very active in cultural activities.

27. Lithuanian Russians participated in politics through political parties and organizations such as the Union of Russian Lithuanians, a political party founded in 1995, and the Citizens' Alliance, a political organization dating from 1996. In the 1996 legislative elections there had been 45 candidates of Russian origin both on the lists of the national minorities and of the other parties. Since independence, persons of Russian origin had sat in the Lithuanian Parliament and on municipal councils.

28. Various Russian religious communities also played an important role in Lithuania's cultural and spiritual life. In 1995 there had been 58 groups of Old Believers and 41 Orthodox groups, with 50 and 41 places of worship respectively. Since the war, there had been a Russian Old-Believers monastery and convent at Vilnius.

29. In conformity with the law, the restitution of property expropriated during the Soviet period was under way; Lithuania's Old Believers were recovering their places of worship and receiving assistance for their repair and restoration. The Orthodox and Old-Believer communities were building new churches or moving into other premises. Both those religious groups were recognized by the State; they were considered part of Lithuania's historic, spiritual and social heritage and received aid from the State and municipal budgets. Finally, Lithuania had a religious press and literature.

30. In 1995, a working group of the Lithuanian Committee on Human and Civil Rights and Ethnic Minorities Affairs had drafted a bill on the national communities, while another bill had been drafted by the parliamentary Committee on Education, Science and Culture. The amended bill on national minorities had been submitted to parliament on 1 March 1996; it contained more detailed provisions on the rights and freedoms of national minorities in Lithuania.

31. The Department of Regional Problems and National Minorities could submit to the Government proposed measures and major guidelines on the problems of national minorities. The Department was responsible for upholding the interests of such minorities and safeguarding their identity, and had access to the information available in ministries and other government institutions and in municipal authorities, firms and other establishments and organizations, from which it received suggestions. It could also collect information on how national laws were implemented by ministries and other bodies, intercede to put a stop to violations of the law, perform a monitoring

function and set up working groups to draft laws. The Department could participate in the preparation of any documents concerning national minorities and in their examination in ministries, other government bodies and municipalities. It could participate in drafting international treaties and enter into agreements with Lithuanian or foreign legal persons. Lastly, official decisions taken by the Department's Board were binding on ministries and other public bodies, firms and municipal or other authorities.

32. The CHAIRPERSON invited the members of the Committee to make their observations and ask any questions concerning the first part of the list of issues (CCPR/C/61/Q/LIT/3).

33. Mr. SCHEININ noted that Lithuania's initial report had been submitted late, in April 1996, the Covenant having come into force for Lithuania in February 1992, and that the delegation had supplemented the information contained in its initial report by a document without symbol made available to the members of the Committee and containing numerous amendments to the initial report, as well as by detailed replies to the questions in the list of issues.

34. He drew attention to the positive elements of which the Committee had just been informed. The first was the progress made towards the abolition of the death penalty which was in keeping with the provisions of article 6, paragraph 6 of the Covenant. The second positive element concerned article 9 of the Covenant and deprivation of liberty. The initial report painted a fairly problematic picture of the situation and of the various forms of detention, although the additional information provided to members of the Committee in the summary of the amendments (GE.97-18727) showed that Lithuania had taken stock of the problem and intended to make good the shortcomings of its legislation.

35. Nevertheless, he had a number of questions. First of all, he would like to know the exact status of the Covenant within the Lithuanian legal system. Like other recent constitutions, Lithuania's contained a provision on the effects of international treaties in respect of which he would appreciate clarification. As he understood it, the Covenant had the status of ordinary law within the Lithuanian legal system, but not that of a constitutional norm. In the circumstances, he asked whether the Constitutional Court's procedure allowed it to take into account the provisions of the Covenant for the purpose of implementing the Constitution, and whether it invoked the Covenant in its case law, as he was not aware of any recent decisions by the Constitutional Court in which the Covenant had been quoted.

36. Secondly, page 4 of the amendments to the initial report, (document GE.97-18727, without symbol, English only) in the section on article 3, referred to the preparation of a bill on gender equality. He asked whether the aim was to draft a law to eliminate only discrimination against women on the labour market or whether a more general measure was planned. For example, the bill could introduce quotas in the civil service or State bodies, set forth rules applicable to advertising in order to prohibit discrimination between men and women and introduce measures to prevent family violence.

37. His third question concerned asylum seekers, and in particular their situation in respect of article 7 of the Covenant, in accordance with which no

one should be subjected to torture or to cruel, inhuman or degrading treatment or punishment. As he understood it, Lithuanian regulations on expulsion invoked the concept of persecution, and he asked whether Lithuanian law provided protection against expulsion solely in the circumstances provided for by the Convention relating to the Status of Refugees (fear of persecution) or if it also provided protection against expulsion if it would expose those expelled to inhuman treatment or inhuman penalties such as, for example, corporal punishment or amputation. He also asked whether Lithuanian law afforded protection for de facto refugees fleeing from an extreme situation such as a natural disaster, a civil war or violence in their own country. Could such factors be invoked to obtain protection against expulsion?

38. His fourth question concerned minorities. In the first place he wondered what was meant by the sentence at the beginning of page 3 of document GE.97-18727, under the heading "Article 1", which stated: "Citizens of Lithuania, 'who during the occupation have left the territory of Lithuania for various reasons and have not returned to it from the territory of the former Soviet Union', are still denied the rights guaranteed them by Article 27 of the Covenant." As those persons were outside Lithuanian territory, he asked why their case was mentioned; in the initial report, they were referred to in paragraph 16.

39. He would also like to know what measures had been taken to protect Jewish cemeteries and the cemeteries of other minorities against desecration. He was concerned not only about measures for which the police and prosecution service were responsible, but also about measures taken by political leaders: he asked whether the latter had specifically expressed their reproval and condemnation of all criminal acts against cemeteries belonging to the minorities.

40. Mr. YALDEN said that abundant information had been provided to the members of the Committee, both in Lithuania's initial report and in the delegation's introductory statement, as well as in the amendments to the initial report. However, he would have appreciated more details on the practical implementation of the Covenant. His first question concerned the status of women (question 3 on the list). Although numerous statistics had been quoted by the delegation, revealing an increase in the number of women parliamentary candidates, no indication had been given of the actual percentage of women members of parliament. It would also have been useful to know what percentage of managerial posts were occupied by women in the public sector and in other branches of activity. Regarding question 4, concerning family violence, the delegation had stated that rape was punished by the Criminal Code, as was to be expected, but it had not referred to what was known as "marital rape".

41. A wealth of generally encouraging information had been provided regarding freedom of expression (question 10). However, his attention had been drawn to the Press Control Board, now known as the Mass Media Board (paragraph 123 of the initial report), responsible to the Ministry of Justice and whose essential role was to register and administer permits to engage in publishing. Unless he was mistaken, the Board still existed, and he would

like to know why an agency was necessary to manage such permits. Although the need for an agency of that kind to manage broadcasting permits was perfectly normal, it was less so where publishing was concerned.

42. He would appreciate fuller information about members of Polish and Russian minorities holding public-sector managerial posts; he understood that the term "nationalities" used in respect of minorities in fact referred to their origin. Like Mr. Scheinin, he queried the meaning of paragraph 16 of the initial report and of the paragraph at the top of page 3 of the document concerning amendments to the initial report (document without symbol GE.97-18727, English only). Lastly, he asked whether the regulations on the use of the State language affected the employment of persons of Polish or Russian origin.

43. Ms. Medina Quiroga took the Chair.

44. Mr. ANDO said that he had two main concerns. First of all, he would like to know what was the exact role of the Constitutional Court in determining the status of the Covenant within the domestic legal system. Under article 105 of the Constitution, the Constitutional Court submitted its conclusions concerning the constitutionality of international agreements entered into by the Republic of Lithuania. In addition, only public bodies could refer a question about the constitutionality of a domestic law to the Constitutional Court. He would like to know whether an individual could refer such matters to the Supreme Court and, through it, to the Constitutional Court. It was stated on page 18 of the document containing amendments to the initial report (GE.97-18727, English only), that the Supreme Court also heard cases in which the European Court of Human Rights had ruled that the decisions taken by the courts of the Republic of Lithuania in civil cases violated the European Convention on Human Rights. He therefore wondered whether what was valid for the European Convention on Human Rights was also valid for the Covenant.

45. His second question concerned freedom of opinion and expression. In connection with religious education at school, he asked for clarification of paragraph 107 of the initial report, and why pupils had to choose between classes on religion and classes on ethics. Moreover, paragraph 123 of the report stated that article 6 of the Law on the Press and other Mass Media prohibited the mass media from publicizing State secrets concerning subjects on a list drawn up by the Government and that, moreover, the Government could impose other restrictions necessary for the protection of State interests. He asked whether it was possible to refer to a court the list of secrets drawn up by the Government and the restrictions the Government could impose to protect State interests.

46. Mr. EL SHAFEI said that he too was gratified by the wealth of information provided in Lithuania's initial report (CCPR/C/81/Add.10, English only; GE.97-18727, English only), as well as by the oral replies of the State party's delegation regarding the legal and constitutional framework for the implementation of the Covenant. Nevertheless, he regretted that the Committee had not been given fuller information on the measures taken by the Lithuanian authorities and on the difficulties they had encountered during the period of

transition to a new regime, in other words, since 1990. Such information would have facilitated the Committee's assessment of the actual human rights situation in Lithuania.

47. On the subject of the status of the Covenant under Lithuanian domestic law, he asked whether the provisions of the Covenant had actually been incorporated into domestic legislation so that they could be invoked not only before the regular courts, but also before the Constitutional Court itself.

48. His second concern was with the situation of ethnic minorities in Lithuania. He noted that, according to the document containing amendments to the initial report (GE.97-18727), ethnic minorities were guaranteed the right to representation in government bodies through universal suffrage. He asked whether direct universal suffrage meant that the members of the minorities participated on the same basis as the rest of the population, or whether separate elections were organized to elect members of the minorities to posts specifically reserved for them. He also asked on the basis of what criteria persons belonging to a minority were authorized to occupy civil service posts, and whether in Lithuania there really were only three political organizations upholding the rights of minorities; there were certainly more than three ethnic minorities in the State party. He asked whether any complaints had been lodged with the Ombudsman about possible violations of the rights and freedoms of ethnic minorities, and on what grounds.

49. He would also like to know whether the bills submitted to Parliament concerning, in particular, the status of refugees and the state of emergency had been promulgated and had entered into force. Lastly, regarding capital punishment, he asked whether, as Lithuania's initial report seemed to suggest, persons under sentence of death benefited from a stay of execution while the Lithuania authorities debated Lithuania's accession to the Second Optional Protocol to the Covenant.

50. Ms. Chanet resumed the Chair.

51. Mr. KLEIN noted with satisfaction that many encouraging developments had taken place in Lithuania since the restoration of its independence in 1990. He commended the establishment of the Constitutional Court, which was to protect the population's fundamental rights, and asked whether it was competent to deal with complaints referred to it directly by individuals; that would be a major step along the road towards genuine democracy. He also asked what method was used to appoint the nine judges who, in accordance with article 103 of the Constitution, composed the Constitutional Court: was the list of candidates proposed - three by the President of the Republic, three by the President of parliament and three by the President of the Supreme Court - exhaustive or could other candidates be proposed independently?

52. Regarding capital punishment, he associated himself with the concern expressed by Mr. El Shafei and asked whether capital punishment itself was suspended or if a mere stay of execution had been granted to persons under sentence of death, who were apparently still held on death row in Lithuanian prisons.

53. He asked for information on the situation of persons who did not benefit from the provisions of Decree No. 15, adopted by the Government of Lithuania on 10 January 1997, and concerning the non-refoulement of certain aliens who, for various reasons, ran the risk of torture or other forms of ill-treatment if they were returned to their country, and whether they were authorized to work and reside in Lithuania.

54. Regarding the freedom of movement proclaimed in article 12 of the Covenant, he asked whether restrictions still applied in Lithuania and what conditions citizens had to satisfy to obtain a passport to travel abroad. Referring to paragraph 56 of Lithuania's initial report, which stated that the law restricted the right of anyone with knowledge of "State secrets", as defined by the law to emigrate, he asked which law defined what constituted a State secret. He also noted the statement in paragraph 123 of the initial report that, in conformity with article 6 of the Law on the Press, the list of subjects constituting State secrets was drawn up by the Government. He asked for an explanation of the difference between State secrets as defined by law and those on the list drawn up by the Government.

55. Lastly, emphasizing that, if the population was to exercise the rights to which it was entitled under the Covenant, it must be fully informed of them, he asked what measures had been adopted by the Government to ensure that in schools and universities, for example, international human rights instruments were sufficiently publicized and whether sufficient information on them was provided, and that the decisions of international bodies such as the Committee contributed to a better understanding and adaptation of national laws.

56. Mr. LALLAH said he was unfortunately not sufficiently familiar with the situation in Lithuania since the transition to a new political system in 1990. He asked whether, and to what extent, high-ranking individuals who had held important positions in the Government, the army, the police and the judiciary had been dismissed for ethnic, national or religious reasons.

57. He also asked what steps had been taken in Lithuania to ensure that citizens were fully informed of their rights, not only under the Constitution, but also under the Covenant, and whether there was a monitoring system to ensure that the population fully exercised all its rights. Were trade unions, professional associations and student organizations free to operate and to express their political aspirations, without hindrance by the Government?

58. He associated himself with Mr. Klein's remarks about the role of the Constitutional Court and those of Mr. El Shafei about the situation of persons held on death row in prisons. He noted that, under article 7 of the Covenant, the Lithuanian authorities were required to refrain from subjecting anyone to torture or to cruel, inhuman or degrading treatment or punishment, and said it would be cruel to allow a person sentenced to death to believe that his sentence would be remitted, only to have it restored.

59. Although there was no specific question in the list of issues (CCPR/C/61/Q/LIT/3) on the exercise of the rights set forth in article 25 of the Covenant, he asked why the age for eligibility set by article 56 of the Constitution was 25, and not the usual age of civil majority. Lastly, he

asked what was the meaning of article 60 of the Constitution, under which members of Parliament could receive no remuneration other than their parliamentary salaries, with the exception of any moneys they received "for performing creative activities".

60. Lord COLVILLE said that, when the list of issues to be taken up in connection with the consideration of the initial report of Lithuania had been prepared, the Committee had not been in possession of the amendments subsequently provided (GE.97-18727, English only), which was why questions had been asked in the list, particularly about the implementation of article 14 of the Covenant, together with other questions, which had been broadly answered in the amendments or observations presented in writing and orally by the Lithuanian delegation. Nevertheless, it was of the utmost importance for the Committee to be informed not only about the legislation and regulations in force in the State party, but also how they were actually implemented. In that regard, he asked how articles 168 and 171 of the Code of Criminal Procedure were applied in the light of article 14, paragraph 4 (g), of the Covenant, under which no one could be compelled to testify against himself or to confess guilt. He asked whether investigating magistrates who had obtained confessions from accused persons under coercion had been prosecuted, and what decisions had been taken by the courts when it had been found that an accused person's or even a witness's statement had been obtained under coercion. That point was of particular importance since it involved protection of the rights of accused persons and had not been mentioned in Lithuania's initial report.

61. Mr. PRADO VALLEJO said that the initial report of Lithuania (CCPR/C/81/Add.10, English only and GE.97-18727, English only) was satisfactory as it specified exactly which rights were guaranteed in Lithuania. Generally speaking, there was nothing worrying about the human rights situation in Lithuania and the authorities were clearly determined to promote human rights.

62. Nevertheless, he had questions about the application of certain articles of the Covenant. First of all, the Government apparently intended to abolish the death penalty. The Council of Europe had requested it to declare a moratorium on executions, and the Lithuanian authorities had responded favourably by announcing their intention to take a decision in the matter in the autumn. He asked where things stood. He earnestly hoped that Lithuania would shortly abolish capital punishment.

63. As for political asylum, legislation existed on the subject, but it was apparently not applied. He asked when it would be applied, how many people had been placed in custody after having applied for political asylum and how many had been expelled from Lithuania.

64. Regarding the implementation of article 12 of the Covenant, it was stated in paragraph 53 of the report (CCPR/C/81/Add.10) that freedom of movement and freedom to choose one's place of residence were guaranteed, although subject to restrictions designed to ensure State security. He understood that the right was also subject to other restrictions connected with State secrecy. He asked the Lithuanian delegation to specify what the grounds for restriction were and to provide further information on that point.

In particular, he asked what remedies were available to a citizen who refused to comply with a ban on leaving the country, and what official body issued such a ban.

65. Paragraph 117 of the report (CCPR/C/81/Add.10) stated that the right to criticize was guaranteed by the Constitution. However, as the subsequent paragraph indicated, the Criminal Code contained a provision prohibiting the establishment of anti-government organizations or participating in their activities. Those texts were contradictory and he would appreciate clarification.

66. Lastly, the law made provisions for administrative detention. What did it imply and on what grounds could it be ordered? What were its consequences and what remedies were available to persons sentenced to administrative detention?

67. Mr. KRETZMER observed that everyone was entitled to protection of the rights embodied in the Covenant, with the exception of those set out in article 25, which applied only to citizens of the State party. He noted that in Lithuania's Constitution most of the articles on human rights matters referred to "persons" although a few of them, in particular articles 32, 35, 36 and 37 applied solely to "citizens". The latter article therefore contradicted the statement made in the penultimate sentence of paragraph 239 of the report (CCPR/C/81/Add.10) and he asked for clarification of the meaning of the terms used.

68. Referring to the application of article 20, paragraph 2 of the Covenant, he noted that the report provided information on legislation but no information on actual practice. He asked whether the Lithuanian authorities had to deal with the problem of incitement to racial or religious hatred, anti-Semitism or any other form of racist propaganda, and whether anyone had been prosecuted for such offences. He asked whether denial of the holocaust constituted incitement to racial hatred or whether it came under specific legislation. He also asked whether there were any individuals in Lithuania who publicly denied the holocaust, advocated a Hitlerite regime or expressed nostalgia for Nazism.

69. Mr. BUERGENTHAL commended the quality of Lithuania's initial report (CCPR/C/81/Add.10) and thanked the Lithuanian delegation for its extremely concise replies to the questions on the list of issues (CCPR/C/61/Q/LIT/3). The Lithuanian Government and people had shown themselves capable of laying the legislative and political foundations of respect for human rights and the primacy of law. In view of Lithuania's history and the suffering inflicted by foreign occupation, he was impressed by the speed with which Lithuania had surmounted the difficulties it had inherited. In addition, the spirit of tolerance shown by the authorities towards national minorities as reflected in the country's legislation, was commendable. He had noted with satisfaction the new provisions on the family names of individuals belonging to minorities. Did those legislative provisions apply solely to passports or to all other cases in which family names were used for official purposes.

70. Paragraph 102 (f) of the report (CCPR/C/81/Add.10) stated that the 1990 Law on Police authorized police officers to detain and deliver vagrants to

reception centres. Was that Law applied, could it be challenged and was the mere fact of being a vagrant an offence punishable by imprisonment? If not, how could the detention of a person solely on the grounds of vagrancy be compatible with the Covenant?

71. Paragraphs 206 et seq. of the report (CCPR/C/81/Add.10) provided a wealth of information concerning the nationality of children. However, there was no mention of the situation of children born in Lithuania to parents who were not Lithuanian nationals but who lived there. Were they entitled to Lithuanian nationality?

72. Lastly, he associated himself with Mr. Klein's remarks about the jurisdiction of the Constitutional Court. Like Mr. Klein, he believed that individuals should be authorized to refer cases directly to the Court to assert their rights.

73. Ms. EVATT said that the report (CCPR/C/81/Add.10), paragraph 12 of which reflected the Lithuanian authorities commendable modesty, nevertheless lacked information on the difficulties hampering the implementation of the Covenant, and she hoped that the next periodic report would provide fuller information on the actual situation.

74. She asked whether the new law being prepared on equality between the sexes and non-discrimination would cover all aspects of discrimination, and in particular discrimination at work in both the public and private sectors. Would it establish machinery to investigate complaints and any mediation procedures and would victims be entitled to compensation for discrimination? Would there be any affirmative action on behalf of women in order to promote equality in all spheres? In particular, she would like to know whether the Government had adopted or intended to adopt any measures to protect women compelled to prostitute themselves by crime syndicates.

75. The report shed little light on the implementation of article 7 of the Covenant. The Committee needed to know, among other things, whether the Government had done anything to bring domestic law into line with international human rights norms, particularly in respect of pre-trial detention and corporal punishment during such detention, mandatory treatment of alcoholics and drug addicts and the right of prison officials to impose penalties on detainees.

76. She would appreciate a definition of the term "State secret", which apparently constituted grounds for restricting both individual freedom of movement and media freedom. Regarding the latter point, she asked for details of the procedure for accrediting foreign journalists, whether accreditation had ever been refused and, if so, how often. She noted from paragraph 55 of the addendum to the report (GE.97-18727, document without symbol, English only) that the law prohibited the dissemination of information that was knowingly not in keeping with reality. What did that mean? In what circumstances were the relevant provisions of the law applied and to what penalties were offenders liable? Details of the grounds on which freedom of information could be restricted, and of the relevant appeal procedures would also be appreciated.

77. Lastly, she shared Mr. Kretzmer's concern about the distinction made, in respect of certain rights, between Lithuanian nationals and other persons.

78. Mr. BHAGWATI said it was a pity that the report which contained a wealth of information, had been submitted late. Although the presentation of the addendum to the report (document GE.97-18727) was confusing it was a valuable supplement. Both documents revealed the considerable progress made by Lithuania in protecting human rights, and the authorities' efforts to ensure full compliance with the Covenant.

79. He associated himself with the questions asked by the other members of the Committee, and in addition, would like to know whether there were any human rights training programmes for judges, lawyers and prison staff. Such training was most important, particularly because the persons concerned were responsible for enforcing concepts considerably different from those that had been in force for many years, and he emphasized the need to develop awareness of human rights and a human rights culture.

80. He would like to know whether individuals could go to court to challenge the constitutionality of a law or its conformity with the Covenant, which was an integral part of Lithuanian domestic law. If so, to which court?

81. The right to be assisted by counsel was apparently guaranteed only in certain cases, which were set out in the amendments to the report (GE.97-18727). What happened to other cases and on what conditions was legal aid provided? Were such matters governed by a specific law?

82. Regarding conscientious objection, he took it that only the members of a pacifist organization or of a religious group that prohibited its members from bearing arms could be exempted from compulsory military service. However, the Ministry of Defence had allegedly stated that there were no such organizations or groups, so that, the right to conscientious objection did not seem to be guaranteed. He would appreciate additional information on the subject and wondered whether the situation was compatible with the provisions of article 18 of the Covenant.

83. Mr. LALLAH said he would like to ask the delegation for additional information on preventive detention. In particular, he did not quite understand what was meant by the terms used in paragraph 26 of the addendum to the report (GE.97-18727). He asked whether the present Lithuanian system made provision for preventive detention. In his view, it was necessary to distinguish between preventive detention, detention pending investigation into a crime or offence created by law and pre-trial detention. In his opinion, the detention referred to in article 9 of the Covenant meant the detention of an individual charged with a criminal offence. Where the situation in Lithuania was concerned, paragraphs 43 et seq. of the report (CCPR/C/81/Add.10) suggested that the police were authorized to arrest people for crimes of intention, and he requested clarification of that point. In his view the concept of preventive detention was associated with dictatorial regimes, and precise information on the situation in Lithuania, both in law and in practice, was important.

84. Mr. JANUŠKA (Lithuania) begged the indulgence of the members of the Committee on behalf of the Lithuanian authorities for the gaps and shortcomings in the report (CCPR/C/81/Add.10) and its addendum (Amendments, document GE.97-18727). He assured them that, in preparing the next periodic report, the Government would take into account all their observations and criticisms. His delegation would appreciate a little time to prepare its replies to the questions asked orally.

85. The CHAIRPERSON said that she would grant the Lithuanian delegation's request and that the Committee would continue its consideration of Lithuania's report at the next meeting.

The meeting rose at 12.55 p.m.